

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

INFOGROUP INC., Delaware corporation,

Plaintiff,

vs.

OFFICE DEPOT, INC., a Delaware
corporation,

Defendant.

Case No. 8:20-cv-00109

**COMPLAINT
JURY TRIAL REQUESTED
REQUEST FOR PLACE OF TRIAL**

Plaintiff Infogroup Inc. (“Infogroup”) in support of its Complaint against Defendant Office Depot, Inc. (“Office Depot”) hereby states and alleges as follows:

PARTIES

1. Infogroup is a Delaware corporation with its principal places of business in Papillion, Nebraska.

2. Office Depot is a Delaware corporation with its principal places of business located in Boca Raton, Florida. Office Depot is an American office supply retailing company with locations throughout the state of Nebraska.

JURISDICTION AND VENUE

3. Jurisdiction in this Court and in the subject matter of this action arises under the copyright laws of the United States, 17 U.S.C. § 501 and, therefore, this Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331.

4. This Court may exercise personal jurisdiction over Office Depot based upon its presence within this judicial district and its transaction of business and other activities within the District of Nebraska.

5. Venue in this Court is proper under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims set forth in this Complaint occurred within this judicial district and Defendant resides in this judicial district.

FACTUAL ALLEGATIONS

6. Infogroup collects, combines and analyzes business information for sales, marketing and business professionals around the world. Infogroup's data and marketing solutions help its customers find new prospects, deepen relationships with existing customers and reach businesses and consumers at home, at work and online.

7. Infogroup maintains its compilation of business data in a business database (the "Business Database").

8. Infogroup uses highly selective and creative business judgments to independently select, coordinate, arrange, and predict hundreds of marketable attributes of businesses in its Business Database.

9. Infogroup's Business Database contains demographic, marketing and other related information on approximately 15 million active U.S. businesses.

10. In order to maintain the Business Database, Infogroup analyzes data from a multitude of original public and proprietary sources, including demographic and marketing information on consumers and businesses.

11. Infogroup also models some of the data in the Business Database, meaning it is not obtained from any outside source, but predicted or created by Infogroup using its highly selective and creative business judgments.

12. Infogroup's Business Database includes, without limitation, the selection, coordination, and arrangement of business information based on Infogroup's highly selective and creative business judgments as to, among other things:

- a. predicted market preferences;
- b. resolution of often-conflicting and incomplete data from multiple sources, including through use of a unique hierarchy of sources, which hierarchy is set by Infogroup; and
- c. proprietary modeling of unavailable business information.

13. Including as set forth above, Infogroup's compilation process goes far beyond the mere gathering, copying, and pasting of third party data into its Business Database.

Office Depot Depot's Infringement of Infogroup's Business Database

14. Office Depot obtained full electronic copies of Infogroup's Business Database, between February 22, 2018 and April 3, 2019 via transfers from Infogroup to Office Depot.

15. Office Depot used Infogroup's Business Database to supply business data for use in Office Depot's mapping program, which is designed with multiple functions, including functions that allow Office Depot to understand small and medium business opportunities near its current business locations and identify new potential business locations (the "Mapping Program").

16. Office Depot used Infogroup's Business Database in its Mapping Program without Infogroup's knowledge, consent, or authorization.

17. At this time, it is unknown when Office Depot started using Infogroup's Business Database in the Mapping Program, but the unauthorized use began at least as early as April 24, 2019, when Infogroup first learned of such unauthorized use through Office Depot's own admission.

18. When Infogroup learned of Office Depot's unauthorized use of Infogroup's Business Database, Infogroup demanded that Office Depot immediately cease and desist such use.

19. Despite Infogroup's demands, Office Depot continues to use Infogroup's Business Database in an infringing manner.

20. Infogroup is entitled to an accounting of Office Depot's use of Infogroup's Business Database, including without limitation how Office Depot used Infogroup's Business Database, the manner of such uses, when such uses occurred, and the benefits (financial and otherwise) that accrued to Office Depot from such use of Infogroup's Business Database.

21. Infogroup has been damaged and continues to be damaged by Office Depot's unauthorized use of Infogroup's Business Database.

**COUNT I
COPYRIGHT MISAPPROPRIATION**

22. Infogroup repeats and re-alleges each of the allegations in the preceding paragraphs previously pled in this Complaint as if each were set forth in full herein.

23. Infogroup owns a valid, registered copyright in the creative works embodied in its Infogroup U.S. Business Database ("July 2017 Version"), which is covered by its copyright registration TX 8-827-485. A true and correct of Infogroup's July 2017 copyright registration is attached hereto as Exhibit "A" and incorporated herein by reference.

24. Infogroup owns a valid, registered copyright in the creative works embodied in its Infogroup U.S. Business Database (“July 2018 Version”), which is covered by its copyright registration TX 8-827-487. A true and correct of Infogroup’s July 2018 copyright registration is attached hereto as Exhibit “B” and incorporated herein by reference.

25. Infogroup owns a valid, registered copyright in the creative works embodied in its Infogroup U.S. Business Database (“July 2019 Version”), which is covered by its copyright registration TX 8-827-488 (the July 2019 Version together with the July 2017 Version and the July 2018 Version are collectively, “Infogroup’s Copyrights”). A true and correct of Infogroup’s July 2019 copyright registration is attached hereto as Exhibit “C” and incorporated herein by reference.

26. Office Depot’s use of Infogroup’s Business Database in the Mapping Program constitutes infringements of Infogroup’s Copyrights.

27. Office Depot’s activities as stated herein constitute copyright infringements in violation of the Federal Copyright Act, 17 U.S.C. § 501.

28. Office Depot’s activities alleged herein have caused irreparable harm, and unless enjoined by the Court, will continue to cause irreparable injury and other damages, for which no adequate remedy exists at law.

29. Office Depot’s infringements of Infogroup’s copyrights were willful and intentional.

WHEREFORE, Plaintiff Infogroup Inc. prays for relief in its favor and against Defendant Office Depot, Inc. as follows:

A. Monetary judgment in an amount to be proven at trial pursuant to the Federal Copyright Act, 17 U.S.C. § 504;

B. An injunction prohibiting Office Depot's, its agents, representatives, and affiliates from using Infogroup's Business Database, and/or any data therefrom, pursuant to Federal Copyright Act, 17 U.S.C. § 502;

C. An order requiring Office Depot provide an accounting of the records, documents, and electronically stored information in the possession, custody, or control of Office Depot relating to the full extent of Office Depot's use of Infogroup's Business Database, including without limitation how Office Depot used Infogroup's Business Database, the manner of such uses, when such uses occurred, and the benefits (financial and otherwise) that accrued to Office Depot from such use of Infogroup's Business Database;

D. An order requiring the impounding of all copies of Infogroup's Business Database, all portions of Infogroup's Business Database incorporated into the Mapping Program, and/or other articles by means of which such copies may be reproduced in Office Depot's possession pursuant to the Federal Copyright Act, 17 U.S.C. § 503;

E. An order requiring the destruction of all copies of Infogroup's Business Database in Office Depot's possession, all portions of Infogroup's Business Database incorporated into the Mapping Program, and or other articles by means of which such copies may be reproduced, pursuant to the Federal Copyright Act, 17 U.S.C. § 503;

F. An award of Infogroup's costs and attorney fees; and

G. An award of such other further and different relief as the Court deems just and equitable.

JURY DEMAND AND REQUEST FOR PLACE OF TRIAL

Pursuant to Fed. R. Civ. P. 38 and NE Civ. R. 40.1(b), Infogroup Inc. hereby demands a trial by jury and requests that trial of this case take place in Omaha, Nebraska.

Dated this 24th day of March 2020.

INFOGROUP INC., Plaintiff

By: /s/ Elizabeth A. Luebbert

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